

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-03066-CJN**

NATIONAL PUBLIC RADIO INC. et al v. FEDERAL
BUREAU OF INVESTIGATION
Assigned to: Judge Carl J. Nichols
Cause: 05:552 Freedom of Information Act

Date Filed: 12/21/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

NATIONAL PUBLIC RADIO, INC.

represented by **Thomas R. Burke**
DAVIS WRIGHT TREMAINE LLP
505 Montgomery Street
Suite 800
San Francisco, CA 94111-6533
(415) 276-6552
Fax: (415) 276-6599
Email: thomasburke@dwt.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Lisa Beth Zycherman
DAVIS WRIGHT TREMAINE, LLP
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20006
(202) 973-4280
Fax: (202) 973-4499
Email: lisazycherman@dwt.com
ATTORNEY TO BE NOTICED

Plaintiff

REBECCA HERSHER

represented by **Thomas R. Burke**
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Lisa Beth Zycherman
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

**FEDERAL BUREAU OF
INVESTIGATION**

represented by **Denise M. Clark**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-6605
Fax: (202) 252-2599
Email: denise.clark@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

U.S. DEPARTMENT OF JUSTICE

represented by **Denise M. Clark**
(See above for address)
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/21/2018	<u>1</u>	COMPLAINT for Injunctive and Declaratory Relief for Violation of the Freedom of Information Act against FEDERAL BUREAU OF INVESTIGATION (Filing fee \$ 400 receipt number 0090-5854293) filed by REBECCA HERSHER, NATIONAL PUBLIC RADIO INC.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Civil Cover Sheet, # <u>6</u> Summons FBI, # <u>7</u> Summons US Atty General, # <u>8</u> Summons US Atty DC)(Zycherman, Lisa) (Entered: 12/21/2018)
12/26/2018		Case Assigned to Judge Colleen Kollar-Kotelly. (zef,) (Entered: 12/26/2018)
12/26/2018	<u>2</u>	SUMMONS (3) Issued Electronically as to FEDERAL BUREAU OF INVESTIGATION, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(zef,) (Entered: 12/26/2018)
01/02/2019	<u>3</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. FEDERAL BUREAU OF INVESTIGATION served on 12/27/2018 (Zycherman, Lisa) (Entered: 01/02/2019)
01/02/2019	<u>4</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 12/27/2018. (Zycherman, Lisa) (Entered: 01/02/2019)
01/02/2019	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 12/27/2018. Answer due for ALL FEDERAL DEFENDANTS by 1/26/2019. (Zycherman, Lisa) (Entered: 01/02/2019)
01/03/2019	<u>6</u>	ORDER ESTABLISHING PROCEDURES FOR CASES ASSIGNED TO JUDGE COLLEEN KOLLAR-KOTELLY. Signed by Judge Colleen Kollar-Kotelly on 01/03/19. (DM) (Entered: 01/03/2019)
01/25/2019	<u>7</u>	MOTION to Stay , MOTION for Extension of Time to by FEDERAL BUREAU OF INVESTIGATION (Clark, Denise) (Entered: 01/25/2019)
01/29/2019		MINUTE ORDER: The Court has received Defendant Federal Bureau of Investigation's ("FBI") <u>7</u> Motion for a Stay and Extension of Time in Light of Lapse of Appropriations. Defendant fails to acknowledge the tardiness of its request pursuant to the Court's <u>6</u> standing order. <i>See</i> Order Establishing Procedures for Cases Assigned to Judge Colleen Kollar-Kotelly, ECF No. <u>6</u> , ¶ 7(A). Plaintiff does not oppose the relief sought in this motion.The Court understands that Congress and the President restored appropriations on January 25, 2019, but that the agencies presumably did not resume operations until the first business day thereafter, January 28, 2019.Accordingly, the Court shall GRANT-in-PART and DENY-in-PART Defendant's <u>7</u> Motion. There is no longer a need to stay this case. However, the Court shall permit the requested extension of 14 days and shall use the date of the resumption of operations as the basis for the further deadline. Defendant shall answer or otherwise respond to the <u>1</u> Complaint by FEBRUARY 11, 2019 .Signed by Judge Colleen Kollar-Kotelly on January 29, 2019. (lcckk1) (Entered: 01/29/2019)
01/29/2019		Set/Reset Deadlines: Answer to <u>1</u> due by 2/11/2019. (dot) (Entered: 01/29/2019)
02/11/2019	<u>8</u>	ANSWER to Complaint by FEDERAL BUREAU OF INVESTIGATION.(Clark, Denise) (Entered: 02/11/2019)
02/14/2019	<u>9</u>	ORDER. The parties shall file the schedule not later than MARCH 18, 2019 . Signed by Judge Colleen Kollar-Kotelly on February 14, 2019. (lcckk1) (Entered: 02/14/2019)
02/14/2019		Set/Reset Deadlines: Meet & Confer Statement due by 3/18/2019. (dot) (Entered: 02/14/2019)
03/04/2019	<u>10</u>	AMENDED COMPLAINT against FEDERAL BUREAU OF INVESTIGATION, U.S. Department of Justice filed by REBECCA HERSHER, NATIONAL PUBLIC RADIO, INC.. (Attachments: # <u>1</u> Comparison of Complaint and Amended Complaint)(Zycherman, Lisa) (Entered: 03/04/2019)

03/04/2019	<u>11</u>	REQUEST FOR SUMMONS TO ISSUE re <u>10</u> Amended Complaint filed by REBECCA HERSHER, NATIONAL PUBLIC RADIO, INC.. Related document: <u>10</u> Amended Complaint filed by REBECCA HERSHER, NATIONAL PUBLIC RADIO, INC..(Zycherman, Lisa) (Entered: 03/04/2019)
03/05/2019	<u>12</u>	SUMMONS (1) Issued Electronically as to U.S. DEPARTMENT OF JUSTICE. (ztd) (Entered: 03/05/2019)
03/18/2019	<u>13</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF JUSTICE served on 3/12/2019 (Zycherman, Lisa) (Entered: 03/18/2019)
03/18/2019	<u>14</u>	Joint STATUS REPORT by REBECCA HERSHER, NATIONAL PUBLIC RADIO, INC.. (Zycherman, Lisa) (Entered: 03/18/2019)
03/18/2019	<u>15</u>	ANSWER to <u>10</u> Amended Complaint by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE.(Clark, Denise) (Entered: 03/18/2019)
03/25/2019		MINUTE ORDER: The Court has received Plaintiffs' <u>10</u> Amended Complaint, Defendants' <u>15</u> Answer thereto, and the parties' <u>14</u> Joint Status Report. The parties have conferred, and Defendants are now ready to begin their search for responsive records. While the parties agree that a further Joint Status Report is the next step in these proceedings, they propose differing deadlines for such Report, and Plaintiffs additionally seek an April 17, 2019, deadline for a <i>Vaughn</i> index. The Court finds that it would be premature to set such a deadline for a <i>Vaughn</i> index when Defendants are only now beginning their search. Rather, by APRIL 17, 2019 , the parties shall submit a further Joint Status Report identifying the status of Defendants' search and review and proposing a schedule for further proceedings. The parties shall submit a further Joint Status Report no later than every thirty days thereafter, unless and until the Court orders otherwise. Signed by Judge Colleen Kollar-Kotelly on March 25, 2019. (lcckk1) (Entered: 03/25/2019)
03/25/2019		Set/Reset Deadlines: Joint Status Report due by 4/17/2019. (dot) (Entered: 03/25/2019)
04/17/2019	<u>16</u>	Joint STATUS REPORT by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE. (Clark, Denise) (Entered: 04/17/2019)
05/02/2019	<u>17</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Thomas R. Burke, :Firm– Davis Wright Tremaine LLP, :Address– 505 Montgomery Street, Suite 800, San Francisco, California 94111–6533. Phone No. – (415) 276–6500. Fax No. – (415) 276–6599 Filing fee \$ 100, receipt number 0090–6098913. Fee Status: Fee Paid. by REBECCA HERSHER, NATIONAL PUBLIC RADIO, INC. (Attachments: # <u>1</u> Declaration of T. Burke, # <u>2</u> Text of Proposed Order)(Zycherman, Lisa) (Entered: 05/02/2019)
05/06/2019		MINUTE ORDER: The Court has received the <u>17</u> Motion for Admission <i>Pro Hac Vice</i> of Thomas R. Burke. That motion is GRANTED CONTINGENT upon Mr. Burke's submission of a declaration by MAY 13, 2019 , stating that he has reviewed and is familiar with the Local Rules of this Court. Signed by Judge Colleen Kollar-Kotelly on May 6, 2019. (lcckk1) (Entered: 05/06/2019)
05/10/2019	<u>18</u>	AFFIDAVIT re Order on Motion for Leave to Appear Pro Hac Vice, <i>revised Declaration of T. Burke</i> by REBECCA HERSHER, NATIONAL PUBLIC RADIO, INC.. (Burke, Thomas) (Entered: 05/10/2019)
05/17/2019	<u>19</u>	Joint STATUS REPORT by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE. (Clark, Denise) (Entered: 05/17/2019)
06/17/2019	<u>20</u>	Joint STATUS REPORT by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE. (Clark, Denise) (Entered: 06/17/2019)
06/24/2019		Case directly reassigned to Judge Carl J. Nichols. Judge Colleen Kollar-Kotelly is no longer assigned to the case. (ztnr) (Entered: 06/24/2019)
07/17/2019	<u>21</u>	Joint STATUS REPORT by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE. (Clark, Denise) (Entered: 07/17/2019)

07/22/2019		MINUTE ORDER. Upon consideration of the Parties' <u>21</u> Joint Status Report, which indicates that Defendants have completed their review of potentially responsive records but that the Parties have reached an impasse regarding when Defendants should produce a <i>Vaughn</i> index, it is hereby ORDERED that Defendants produce their <i>Vaughn</i> index on or before August 15, 2019. Signed by Judge Carl J. Nichols on July 22, 2019. (lccjn1) (Entered: 07/22/2019)
07/22/2019		Set/Reset Deadlines/Hearings: Defendant's Vaughn Index due by 8/15/2019. (zcdw) (Entered: 07/22/2019)
08/16/2019	<u>22</u>	Joint STATUS REPORT by REBECCA HERSHER, NATIONAL PUBLIC RADIO, INC.. (Zycherman, Lisa) (Entered: 08/16/2019)
08/23/2019		MINUTE ORDER. Upon review of the Parties' <u>22</u> Joint Status Report, it is hereby ORDERED that the Parties shall file any dispositive motions by October 16, 2019, with briefing to proceed thereafter in accordance with LCvR 7. The Court acknowledges the Parties' dispute over the adequacy of Defendant's <i>Vaughn</i> Index and will consider that issue at summary judgment. Signed by Judge Carl J. Nichols on August 23, 2019. (lccjn2) (Entered: 08/23/2019)
08/23/2019		Set/Reset Deadlines/Hearings: Dispositive Motions due by 10/16/2019. (zcdw) (Entered: 08/25/2019)
10/16/2019	<u>23</u>	MOTION for Summary Judgment by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Declaration Hardy, # <u>3</u> Exhibit A–H, # <u>4</u> Table of Contents, # <u>5</u> Table of Authorities)(Clark, Denise) (Entered: 10/16/2019)
10/16/2019	<u>24</u>	MOTION for Summary Judgment <i>and Statement of Material Facts</i> by REBECCA HERSHER, NATIONAL PUBLIC RADIO, INC. (Attachments: # <u>1</u> Declaration of Lisa B. Zycherman, # <u>2</u> Zycherman Decl. Ex. 1 to 11, # <u>3</u> Zycherman Decl. Ex. 12 to 15, # <u>4</u> Zycherman Decl. Ex. 16 and 17, # <u>5</u> Zycherman Decl. Ex. 18 to 22, # <u>6</u> Text of Proposed Order)(Zycherman, Lisa) (Entered: 10/16/2019)
10/29/2019	<u>25</u>	Consent MOTION for Extension of Time to File Response/Reply by FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE (Clark, Denise) (Entered: 10/29/2019)
10/29/2019		MINUTE ORDER. Upon review of Defendant's <u>25</u> Motion for Extension of Time, it is hereby ORDERED that the Motion is GRANTED. The Parties shall file their responses on the Cross–Motions for Summary Judgment by November 19, 2019 and their replies by November 26, 2019. Signed by Judge Carl J. Nichols on October 29, 2019. (lccjn2) (Entered: 10/29/2019)